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**Title:** Lone Oak Road SE and Creekside Development

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 Councilor(s): McCoid  
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**Attachments:** 1. Attachment 1 - Creekside Estates Overview, 2. Attachment 2 - 1992-1997 Phases Creekside Estates, 3. Attachment 3 - 1998-2003 Phases Creekside Estates, 4. Attachment 4 - 2004-2016 Phases Creekside Estates, 5. Attachment 5 Creekside Future Phases.pdf, 6. Attachment 6 - 2017 Photos of Missing Segment of Lone Oak, 7. Attachment 7 - Creekside MOU 052715

Date	Ver.	Action By	Action	Result
6/26/2017	1	City Council	approved	Pass

**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Peter Fernandez, PE, Public Works Director

**SUBJECT:**  
 Lone Oak Road SE and Creekside Development

Ward(s): Ward 4  
 Councilor(s): McCoid  
 Neighborhood(s): South Gateway Neighborhood

**ISSUE:**

Uncompleted segment of Lone Oak Road SE and impact on future development of the Creekside area.

**RECOMMENDATION:**  
 Information and future Council consideration.

**SUMMARY AND BACKGROUND:**

Council requested a report on the uncompleted segment of Lone Oak Road SE, including a bridge

over Jory Creek. This report describes the existing situation, summarizes 25 years of development history and city decisions, and provides options for Council consideration.

After 25 years of phased development, approximately 550 residential properties have been constructed at Creekside. Still to be completed is a 2,200-foot section of Lone Oak Road SE, which will provide north/south connectivity and additional ways to access residential properties south of Jory Creek. Constructing this undeveloped section of Lone Oak Road SE-estimated to cost approximately \$8.2 million-is a condition of approval for several subdivisions. Given the high cost of constructing Lone Oak Road SE, a number of planned development phases are unlikely to proceed.

The \$8.2 million estimate includes \$5.6 million to design and construct a bridge to connect Lone Oak Road SE over Jory Creek. Partial funding of the Lone Oak Bridge is included in the City's Capital Improvement Plan with \$1,050,00 in system development charges and construction subject to securing additional funding sources.

When the Creekside development was first approved, City policy allowed for developments to be constructed in phases without the need for advanced detailed phasing plans or specific actions that would require improvements to be built. The policy provided discretion for needed improvements with each subsequent phase. Developers benefited from this policy because it provided flexibility for them to adjust development locations and infrastructure phasing based on market conditions and preferred construction schedules.

Current City code for phased developments requires development applications to provide specific phasing plans. Additionally, all tentative phased subdivision approvals now include specific conditions ensuring that infrastructure will be constructed commensurately within each phase. Each phase is required to function as a self-contained development.

## **Creekside Development**

Golf Club Estates at Creekside (Creekside) is a residential development constructed in multiple phases over the past 25 years (Attachment 1). Rather than proceeding under a single land-use approval with pre-determined phases, each phase of Creekside has been approved as an individual, stand-alone Planned Unit Development (PUD) or subdivision. The only approval which spans all Creekside phases is an Urban Growth Preliminary Declaration (UGA90-9) adopted in 1990 that determined the major public facilities needed to serve approximately 264.4 acres. UGA90-9 was revised several times in the 1990s and 2000s.

Of the approximately 550 single family residential lots, 450 lots are located north and west of the Creekside Golf Course-and Jory Creek. These lots are roughly bounded by, and can be accessed from, Lone Oak Road SE on the west, Mildred Lane SE on the north, and Sunnyside Road SE on the east. The remaining 100 lots have been developed south of the golf course with access from Devon Street SE because of the missing section of Lone Oak Road.

## **History of Development and Infrastructure Improvements**

The first Planned Unit Development was approved in 1992. As a condition of development, the

developer is required to incrementally construct public infrastructure improvements for each phase. The public infrastructure improvements have served, and will serve, both Creekside and surrounding properties.

#### *1992-1997 Development Phases*

Attachment 2 illustrates where the initial Creekside development phases were located along the north side of the golf course. As a condition of these phases, the developer was required to construct 1,500 feet of street improvements along Sunnyside Road SE, the Creekside water pump station, and 5,000 feet of 16-inch water main from Sunnyside Road SE to the Creekside pump station.

#### *1998-2003 Development Phases*

Attachment 3 illustrates the second set of development phases at Creekside, located between Mildred Lane SE and the golf course on the north, and on Sahalee Drive SE south of the golf course. Major infrastructure improvements constructed by the developer during these phases included 2,000 feet of street improvements along Mildred Lane SE, 1,500 feet of street improvement along Lone Oak Road SE south of Mildred, 2,000 feet of street improvements along Devon Avenue SE from Rees Hill Road SE to Sahalee Drive SE, and reconfiguring the Lone Oak/Mildred intersection.

#### *2004-2016 Development Phases*

Attachment 4 illustrates the third set of Creekside development phases generally located west of the golf course. Major infrastructure improvements constructed by the developer during these phases included the Champion Hill Reservoir, 9,000 feet of 16-inch water main from Creekside pump station to Champion Hill Reservoir, 1,500 feet of street improvements along Lone Oak Road SE north of Jory Creek, and 1,000 feet of street improvements along Lone Oak Road SE south of Jory Creek.

#### *Future Development Phases*

Attachment 5 illustrates the remaining Creekside development phases on the undeveloped property west of the golf course. The major public improvements required for these phases are completing the remaining 2,200 feet of Lone Oak Road SE, including constructing the bridge over Jory Creek.

### **Lone Oak Road SE and Bridge**

Lone Oak Road SE is functionally-classified as a collector street in the *Salem Transportation System Plan*. From its northern terminus at Browning Avenue SE, Lone Oak Road SE runs north-south parallel to, and roughly mid-point, between Liberty Road SE on the west and Sunnyside Road SE to the east, to its current southern terminus at Jory Creek. Attachment 6 contains photos taken on April 6, 2017, at various locations along the missing segment of Lone Oak Road SE.

In 2007, the Creekside developer initiated construction of the missing segment of Lone Oak Road. Construction plans were prepared by a private engineering consultant and permits were issued by the City. A box culvert was installed over Jory Creek and some preliminary earth grading along the alignment of Lone Oak Road was completed. Work on the project was halted by the developer and

no additional work has occurred since 2007. At present, there is no timetable for constructing the bridge and remaining sections of Lone Oak Road SE.

In 2014, Creekside Phase 14 proposed to divide 26.65 acres south of the golf course into 23 residential lots as a PUD modification and subdivision. The Planning Commission approved the subdivision. The Creekside Homeowners Association, concerned about the unfinished segment of Lone Oak Road SE, appealed the Planning Commission's decision to the Land Use Board of Appeals (LUBA). As a result of negotiations between the Creekside developer, the Homeowners Association, and the City, a Memorandum of Understanding (MOU) splits the construction requirement for the missing Lone Oak Road segment between the City and the Creekside developer. In the MOU, the City agreed to fund construction of the bridge with Transportation System Development Charges (TSDC) (Attachment 7).

In the MOU, the Creekside developer agreed to dedicate the right-of-way for the missing segment of Lone Oak Road SE with the first phase of the subdivision. The first phase will create eight lots; three of the lots are available for single family construction prior to the road and bridge being built. The MOU states that after these three homes, no homes will be built until the bridge and road are completed. The MOU reiterates that the developer is responsible for constructing the missing segment of Lone Oak Road SE to the bridge.

As a result of the MOU, construction of the bridge was included in the *Capital Improvement Plan* for Fiscal Years 2015-16 through 2019-20. The project remains in the *Capital Improvement Plan* for Fiscal Years 2018 through 2022. The Lone Oak Bridge project is listed in the Capital Improvement Plan as project no. 0000212 with a total of \$1,050,000 in TSDC funding beginning in FY 2019-20. The listing states, "partial funding for design and construction...construction of this project will be subject to securing additional funding."

### **Current Development south of Jory Creek**

Development continues in the area south of the unfinished section of Lone Oak Road SE. On April 11, 2017, the Planning Commission approved a four-lot subdivision on Sahalee Drive SE that further divided a 2.83-acre lot platted as part of an earlier phase of Creekside. The Planning Commission originally approved this proposal in 2015 as a modification of a 2003 PUD with completion of Lone Oak Road SE and the bridge over Jory Creek as a condition of approval. On remand from LUBA, the Planning Commission approved the proposal as a standalone subdivision, with a condition requiring the developer to pay a fee in lieu of construction toward Lone Oak Road SE improvements in the vicinity. In approving the four-lot subdivision, the Planning Commission found that further development in the vicinity would "eventually necessitate a direct, fully-improved connection to the arterial street network" and that adoption of a fee in-lieu "would not create a binding precedent to allow significant future development in the vicinity without accompanying upgrades to the nearby street network."

Phase 14 of Creekside has been tentatively approved and is currently underway on Augusta Street SE. This phase consists of three parts. The first part requires the developer to dedicate the right-of-way-needed to complete Lone Oak Road SE. In exchange, the developer is authorized to create a six-lot subdivision and construct single-family residences on three of the six lots. The subsequent two

parts of Phase 14 involve constructing single-family homes on the remaining three lots and developing an additional ten lots (Part 2) and seven lots (Part 3). However, these land divisions cannot proceed until the developer has completed Lone Oak Road SE.

Oak Ridge Estates, a 38-lot subdivision at the southerly terminus of Lone Oak Road SE just outside of the Creekside area was approved by the Planning Administrator in 2008 conditioned upon completion of the Lone Oak Road SE connection. The applicant has submitted a request to modify conditions requiring completion of the Lone Oak Road SE connection be replaced with a payment of a fee in-lieu of construction. Because this application is currently being processed by the Planning Division, *ex-parte* rules apply, and members of Council are requested to direct any question regarding the application to staff.

## **FACTS AND FINDINGS**

### **Current Design Concept and Cost Estimate**

There are two engineering options for completing the crossing over Jory Creek: (1) earthen fills over the existing box culvert with newly constructed retaining walls; or (2) building a new bridge. Current estimates to complete the crossing range from \$4.6 million for earthen fills to \$5.6 million for a new bridge. However, the estimated cost for the earthen fill options has a high degree of uncertainty because of the unknown soil conditions, the large footprint required, and the environmental permit requirements and mitigations needed when extending the box culvert.

Constructing a new bridge at Jory Creek is the preferred alternative. A breakdown of the costs for a new bridge crossing Jory Creek:

Design:	\$ 810,000
Right-of-Way Acquisition:	\$ 140,000
<u>Construction/Construction Engineering:</u>	<u>\$4,650,000</u>
Total:	\$5,600,000

Lone Oak Road SE also needs to be extended from the proposed bridge landing on the south of Jory Creek to Augusta Street SE. The estimated cost for this section of roadway is \$2.6 million. Completing this extension is expected to be the developer's responsibility, consistent with all past land use approvals and the MOU.

If a financing plan can be arranged to cover all or a portion of these costs, the earliest year that the connection could be made is 2020.

### **Policy Considerations**

There are options to address the current and future transportation system needs for the Creekside area.

#### *Construction Moratorium*

Council could direct staff to prohibit any future development in Creekside and other properties south of Jory Creek until construction of Lone Oak Road SE, including the bridge over Jory Creek, is completed. Generally, this would require completion of the road to be a condition of approval of future development projects in the vicinity, regardless of size. A moratorium is allowed under state land use law, but is an extreme option. Council would be required to make specific findings that there is clear and convincing evidence in support of a range of conditions, and it is questionable whether a moratorium would be sustained on appeal to LUBA.

### *Single Issue (Project) Borrowing*

This option involves the City borrowing money specifically for constructing the missing segment of Lone Oak Road SE, including the bridge. The loan repayments would be taken out of the Transportation System Development Charge Fund over a long period of time or, should a transportation bond be approved, payment of the remaining loan principal could be included in the bond measure.

### *Transportation Bond*

Historically, major street infrastructure projects have been funded through voter-approved general obligation bonds. Most recently, a \$99 million Streets and Bridges General Obligation Bond Measure was approved by voters in 2008. Constructing a bridge over Jory Creek and completing the remaining segment of Lone Oak Road SE could be included in a future bond measure. Council could direct staff to recommend a timetable for bringing a transportation bond measure to the voters.

### *Local Improvement District*

A funding mechanism provided under state law, but not expressly allowed by the *Salem Revised Code* is a Local Improvement District (LID). An LID is different from development-related fees in that an LID fee can be applied to both new development and existing properties within the district's boundaries. Lone Oak Road SE construction can be funded through local improvement district fees assessed to all the local property owners benefiting from the improvement. To implement this funding option, Council could direct staff to propose an ordinance and associated administrative rules to implement local improvement districts.

### *Transportation System Development Charge (TSDC) Funds*

System Development Charges are collected from new development and are used to pay for eligible transportation projects that support future growth. The portion of a project eligible for TSDC funding is based on a Council-approved eligibility list, which provides the estimated construction cost and the percentage of that cost eligible for TSDC reimbursement. This section of Lone Oak Road SE, including the bridge over Jory Creek, has been on the TSDC list since 1995 and is partially eligible for funding from TSDCs. The construction cost of Lone Oak Road SE significantly exceeds the amount of TSDC funds currently available.

### *Incremental Development Fees*

Creekside development implemented one of Salem's first incremental development fee concepts to fund the Creekside Pump Station and Champion Hill Reservoir. At the time building permits were issued, each lot within the development paid between \$1,500 and \$2,000 in additional fees toward future construction of the pump station and reservoir. The intent was that over time there would be sufficient funds to construct the pump station and reservoir when needed. When Champion Hill Reservoir was constructed in 2006, this fund covered approximately one-third the total cost; the remaining construction costs were covered by the Water System Development Charge funds.

### *Fee In-Lieu*

The recent four-lot subdivision on Sahalee Drive SE was approved by the Planning Commission upon the condition the developer pay approximately \$9,000 per lot as a fee-in-lieu of constructing Lone Oak Road SE and the bridge over Jory Creek. The Planning Commission found that the fee in-lieu amount adopted for the Sahalee Drive SE subdivision is based solely on the specific circumstances of that case. It was a proportional fee for the four-lot subdivision and was not intended to establish a transferable fee to cover the full cost of either the road or the bridge. Under certain circumstances, a higher fee could be charged to future developments for the purpose of funding the Lone Oak Road SE extension and bridge over Jory Creek through an Incremental Development Fee.

### *Reimbursement District*

Constructing the missing portion of Lone Oak Road SE and the bridge over Jory Creek remain conditions of development approval for other properties in the vicinity. In other instances when large public facilities have been identified as necessary to particular developments, the developer has been required to construct the improvement and seek reimbursement from the City through SDCs or form a reimbursement district. A reimbursement district requires undeveloped properties in the vicinity to pay their pro-rata share of the cost of the improvement. A reimbursement district may be formed prior to the construction of the improvements. Through payments of the reimbursement fees, development of the vacant properties in the vicinity could proceed.

### *Alternative Secondary Access*

The *Salem Transportation System Plan* identifies a segment of Lone Oak Road SE that extends south from the vicinity of Sahalee Drive SE to Rees Hill Road SE. This road is in unincorporated Marion County. This section may be less expensive to construct to Rees Hill Road SE than the northerly Lone Oak Road SE connection and bridge. If constructed, this south extension of Lone Oak Road SE to Rees Hill Road SE could serve as the secondary access to the properties south of Jory Creek until the upper section of Lone Oak Road SE is completed. Funding for this road could be accomplished through developer contributions, either alone or with one or more of the methods described above.

### **Next Steps**

Unless directed otherwise by Council, staff will require any future development phases at Creekside and in the vicinity to complete construction of the Lone Oak Road SE connection as a condition of development.

Robert D. Chandler, PhD, PE  
Assistant Public Works Director

Attachments:

1. Map: Overview of Golf Club Estates at Creekside
2. Map: 1992-1997 Development Phases at Golf Club Estates at Creekside
3. Map: 1998-2003 Development Phases at Golf Club Estates at Creekside
4. Map: 2004-2016 Development Phases at Golf Club Estates at Creekside
5. Map: Future Phases at Golf Club Estates at Creekside
6. Photos: Incomplete Section of Lone Oak Road
7. May 27, 2015, Memorandum of Understanding